

PATENT

Docket No. 180.00020102

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Smith et al.) Group Art Unit: 1653
Serial No.: 09/813,345)
Filed: March 20, 2001) Examiner: S. Liu
For: PEPTIDE ANTAGONISTS OF CGRP-RECEPTOR SUPERFAMILY AND METHODS OF USE

FACSIMILE TRANSMISSION TO THE PTO

Assistant Commissioner for Patents
Attn: Examiner S. Liu
Washington, D.C. 20231

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PATENT TRADEMARK OFFICE

Date June 19, 2002

By:

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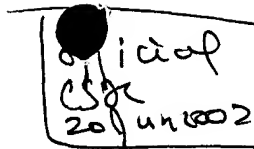
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Name: Jill R. Price

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METHODS OF USE)

RESPONSE TO RESTRICTION REQUIREMENT

Assistant Commissioner for Patents
Washington D.C. 20231

Dear Sir:

In response to the Restriction Requirement mailed May 20, 2002, Applicants elect, with traverse, Group I (claims 21-26 and 29-47), drawn to a method for inhibiting CGRP binding to one or more CGRP receptors. Applicants reserve the right to pursue examination of the non-elected claims in continuation or divisional applications.

Applicants respectfully request reconsideration and withdrawal or modification of the restriction requirement. It is respectfully submitted that the inventions as claimed can be readily evaluated in one search without placing undue burden on the Examiner. That is, all the claims are so interrelated that a search of one group of claims will reveal art to the others. Specifically, all the claims involve the interaction of the peptide R¹-X-Z with a CGRP receptor.

Were restriction to be effected between the claims of Groups II-III, a separate examination of the claims in these three groups would require substantial duplication of work on the part of the U.S. Patent and Trademark Office. Even though some additional consideration would be necessary, the scope of analysis of novelty of all the claims of Groups I-III would have to be as rigorous as when only the claims of Group I, for example, were being considered by themselves. Clearly, this duplication of effort would not be warranted where these claims of different categories are so interrelated. Further, Applicants submit that for restriction to be effected between the claims in Groups I-III, it would place an undue burden by requiring payment of two separate filing fees for examination of the nonelected claims, as well as the added costs associated with prosecuting three applications and maintaining three patents.

Response to Restriction Requirement

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In response to the election of species requirement, Applicants make the following species election:

for the structure recited in claim 1,

R¹=phenyl group (unsubstituted);

X=carbonyl group; and

Z=human sequence CGRP.

This election is made with traverse to the extent that it is understood that (a) the requirement will be withdrawn upon the finding of an allowable genus; and (b) any species withdrawn from consideration will be transferred to the elected subject matter unless it is found patentably distinct from the elected or allowed claims.

The Examiner is invited to contact Applicants' Representatives, at the below-listed telephone number if prosecution of this application may be assisted thereby.

Respectfully submitted for
Smith et al.

By

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June 19, 2002
Date

AMM/jrp

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CERTIFICATE UNDER 37 C.F.R. 1.8:

The undersigned hereby certifies that this paper is being transmitted by facsimile in accordance with 37 CFR §1.6(d) to the Patent and Trademark Office, addressed to Assistant Commissioner for Patents, Washington, D.C. 20231, on this 19th day of June, 2002, at 5:00pm (Central Time).

Jill R. Price
Jill R. Price